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U.S. Department of Justice
Immigration and Naturalization Service

OFFICE OF ADMINISTRATIVE APPEALS
425 Eye Street N.W.
ULLB, 3rd Floor
Washington, D.C. 20536



PUBLIC COPY

File: WAC 98 201 50068 Office: California Service Center Date: **AUG 28 2001**

IN RE: Petitioner: [Redacted]
Beneficiary: [Redacted]

Petition: Immigrant Petition for Alien Worker as an Alien of Extraordinary Ability Pursuant to Section 203(b)(1)(A) of the Immigration and Nationality Act, 8 U.S.C. 1153(b)(1)(A)

IN BEHALF OF PETITIONER:



Identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

INSTRUCTIONS:

This is the decision in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. 103.5(a)(1)(i).

If you have new or additional information that you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. Id.

Any motion must be filed with the office that originally decided your case along with a fee of \$110 as required under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER,
EXAMINATIONS

Robert P. Wiemann, Acting Director
Administrative Appeals Office

DISCUSSION: The employment-based immigrant visa petition was denied by the Director, California Service Center, and is now before the Associate Commissioner for Examinations on appeal. The appeal will be dismissed.

The petitioner seeks classification as an employment-based immigrant pursuant to section 203(b)(1)(A) of the Immigration and Nationality Act (the Act), 8 U.S.C. 1153(b)(1)(A), as an alien of extraordinary ability in the sciences. The director determined the petitioner had not established the sustained national or international acclaim necessary to qualify for classification as an alien of extraordinary ability.

Section 203(b) of the Act states, in pertinent part, that:

(1) Priority Workers. -- Visas shall first be made available . . . to qualified immigrants who are aliens described in any of the following subparagraphs (A) through (C):

(A) Aliens with Extraordinary Ability. -- An alien is described in this subparagraph if --

(i) the alien has extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim and whose achievements have been recognized in the field through extensive documentation,

(ii) the alien seeks to enter the United States to continue work in the area of extraordinary ability, and

(iii) the alien's entry to the United States will substantially benefit prospectively the United States.

As used in this section, the term "extraordinary ability" means a level of expertise indicating that the individual is one of that small percentage who have risen to the very top of the field of endeavor. 8 C.F.R. 204.5(h)(2). The specific requirements for supporting documents to establish that an alien has sustained national or international acclaim and recognition in his or her field of expertise are set forth in the Service regulation at 8 C.F.R. 204.5(h)(3). The relevant criteria will be addressed below. It should be reiterated, however, that the petitioner must show that he has sustained national or international acclaim at the very top level.

The petitioner seeks classification as an alien with extraordinary ability as a microbiologist. The regulation at 8 C.F.R. 204.5(h)(3) indicates that an alien can establish sustained national or international acclaim through evidence of a one-time achievement (that is, a major, international recognized award). Barring the alien's receipt of such an award, the regulation outlines ten criteria, at least three of which must be satisfied

for an alien to establish the sustained acclaim necessary to qualify as an alien of extraordinary ability. The petitioner does not clearly identify the criteria that he claims to have satisfied, but the evidence submitted appears to conform most closely to the following criteria:

Documentation of the alien's receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor.

The petitioner submits copies of several "honor certificates" that he has received over the years. Almost all of the certificates are from Suzhou Medical College rather than any national or international body; there is no evidence that these certificates are of particular significance outside of the college which awarded them.

In 1995, the petitioner received "the prize of the Zhoushi Medical Educational Scientific Research Fund"; the record offers no information about the nature or significance of this prize.

Documentation of the alien's membership in associations in the field for which classification is sought, which require outstanding achievements of their members, as judged by recognized national or international experts in their disciplines or fields.

The petitioner submits copies of membership documents from the Suzhou City Medical Science Association, China Medical Science Association, China National Medicine Association, and China National Scientific Association. The record contains no evidence to establish whether any of these associations require outstanding achievements of their members.

Published materials about the alien in professional or major trade publications or other major media, relating to the alien's work in the field for which classification is sought. Such evidence shall include the title, date, and author of the material, and any necessary translation.

The petitioner claims to be listed in what he calls the "Dictionary of Celebrities." A certificate in the record indicates that the petitioner was listed in the 1992 edition of the Dictionary of Senior Lecturers for China Professional Schools. This volume would appear to be, in essence, a professional directory; there is no indication that only the top lecturers merit inclusion in the book.

Evidence of the alien's original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field.

The record contains an unsigned document, apparently written by the petitioner himself, entitled "Records of Big Events." The document

lists various positions which the petitioner has held, projects in which he has participated, and articles which he has written. Simply listing one's accomplishments does not establish their significance, nor does it show that the accomplishments have earned the petitioner sustained national or international acclaim.

Evidence of the alien's authorship of scholarly articles in the field, in professional or major trade publications or other major media.

The petitioner has written three articles, and he has translated articles by others. Translation of articles by others does not represent original research work, and therefore the publication of such a translation carries considerably less weight than the publication of original work by the petitioner himself.

The petitioner's own articles appeared in Selected Works of Science and Education in China and Suzhou School of Medicine. The record does not offer sufficient information about these publications to allow us to determine that they represent major publications.

The petitioner submits copies of untranslated letters which, the petitioner claims, are invitations for the petitioner to submit articles to upcoming publications. The record contains no information about the publications, nor even translations of the letters themselves.

Evidence that the alien has performed in a leading or critical role for organizations or establishments that have a distinguished reputation.

The petitioner lists several positions that he has held since the 1960s. The petitioner indicates that he has served as a lecturer as well as the head of various research groups. The petitioner states that he became "Dean of the Department of Studies at the Medical School [of No. 1 Hospital] in September 1982," and that in 1992 he was "appointed by Educational Committee of Jiangsu Province to be as a member of the Committee for grading high-ranking titles for intermediate specialty schools, as the head of the biology group." This latter position appeared to be at a provincial rather than national or international level.

The director denied the petition, stating that while the petitioner has documented a long and varied career in his field, the record does not establish national or international acclaim, nor does it place the petitioner at the top of his field.

On appeal, the petitioner submits additional evidence which, he claims, places him at the top of his field of endeavor. The petitioner submits a copy of the director's decision, with handwritten notes in Chinese. It appears that these notes may be translations of key sections of the decision; at any rate, the record offers no translation of these notations.

The petitioner submits several new letters, all unsigned, attested by organizations rather than by individuals. A letter attributed to the Association of Science and Technology of the People's Republic of China indicates that the petitioner "is a Director of our Association. Especially in the research work of Immunity and Prevention of Cancer, he has made extraordinary contributions."

Another letter, from the Ministry of Public Health of the People's Republic of China, states that the petitioner "has published dozens of academic papers which have evoked great repercussions both at home and abroad." The letter does not identify these published articles (no more than three of which are actually in the record), nor does the record contain any direct, first-hand evidence that other researchers have heavily cited the petitioner's work.

A letter from the China Microorganism Academic Society affirms the petitioner's membership, and states "[a]ll members of our Society were examined to be microbe specialists with the honor of national acclaim." This society is not one of the associations in which the petitioner had previously claimed membership. The three letters discussed immediately above all share a number of characteristics.¹

A fourth letter, from the China Educationalist Association, shares the same style of letterhead but is printed on coarser paper, with printing on both sides, and it has been repeatedly folded and creased, consistent with being posted in a small envelope via international mail. This letter is a "form" letter, with the petitioner's name handwritten into a blank space at the beginning of the body of the letter, inviting the petitioner to submit information to "be included in China Educational Experts & Talents Dictionary as you have done the special contribution to society." This letter is dated 1999, after the petition's July 1998 filing date; the petitioner clearly had not received it before he filed the petition. See Matter of Katiqbak, 14 I & N Dec. 45 (Reg. Comm. 1971), in which the Service held that beneficiaries seeking employment-based immigrant classification must possess the necessary qualifications as of the visa petition's filing date.

The petitioner submits additional letters, attesting to his employment, as well as certificates which are said to be from the Association of Science and Technology of the People's Republic of China, the Ministry of Public Health of the People's Republic of China, and the China Microorganism Academic Society. Like the letters attributed to these three entities, the certificates are

¹The letters are all in an identical format, with letterhead consisting of underlined block letters in red ink; all are printed on plain, white, unwatermarked paper; instead of signatures, each letter ends with the name of the issuing entity, over stamped in red ink with a star, encircled by the entity's name, surrounded by a circle. We note, also, that none of these three letters has been folded or creased.

alike in more ways than they differ.² As with the letters from the same entities, the certificates do not identify any specific official who could verify the documents. The petitioner does not offer any explanation as to why these awards and memberships were not mentioned when he first filed the petition.

Many of the documents submitted on appeal simply repeat the uncontested assertion that the petitioner has several decades of experience as a researcher and instructor. Other documents raise more questions than they answer, owing to their very close similarities despite purportedly being issued at different times by different entities. Upon careful consideration, we cannot conclude that the evidence in the record reliably demonstrates that the petitioner has earned sustained national or international acclaim as one of the top figures in his field.

The documentation submitted in support of a claim of extraordinary ability must clearly demonstrate that the alien has achieved sustained national or international acclaim, is one of the small percentage who has risen to the very top of the field of endeavor, and that the alien's entry into the United States will substantially benefit prospectively the United States.

Review of the record, however, does not establish that the petitioner has distinguished himself in his field to such an extent that he may be said to have achieved sustained national or international acclaim or to be within the small percentage at the very top of that field. The evidence is not persuasive that the petitioner's achievements set him significantly above almost all others in his field at a national or international level. Therefore, the petitioner has not established eligibility pursuant to section 203(b)(1)(A) of the Act and the petition may not be approved.

The burden of proof in visa petition proceedings remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. 1361. Here, the petitioner has not sustained that burden. Accordingly, the appeal will be dismissed.

ORDER: The appeal is dismissed.

²All three certificates are printed on the same paper, with the same basic design in the background, consisting of gold-colored plants against a backdrop of pink flowers. All three certificates have two Chinese characters emblazoned in gold at the top center; two of the certificates feature the same two characters. The inscriptions on the certificates are in the same type style, and size, as the text of the letters from the respective entities. All three documents have a light vertical crease in the center.